



# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 309 be amended to read as follows:

- 1       Page 5, line 15, delete "(a)(2) or (a)(3), as applicable." and insert
- 2       **"(a)(2), subsection (a)(3) (if applicable), or section 7 of this**
- 3       **chapter."**
- 4       Page 5, between lines 18 and 19, begin a new paragraph and insert:
- 5       **"SECTION 2. IC 8-1-2.3-7 IS ADDED TO THE INDIANA CODE**
- 6       **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 7       **UPON PASSAGE]: Sec. 7. (a) This section does not apply to**
- 8       **incorporations, consolidations, mergers, or annexations that:**
- 9       **(1) are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h),**
- 10       **or IC 36-4-3-4.1; or**
- 11       **(2) are not contiguous under IC 36-4-3-13(b) or**
- 12       **IC 36-4-3-13(c).**
- 13       **(b) After May 12, 2015, if:**
- 14       **(1) a municipality that owns and operates an electric utility**
- 15       **system furnishing retail electric service to the public annexes**
- 16       **an area beyond the assigned service area of its municipally**
- 17       **owned electric utility; and**
- 18       **(2) the municipality and the affected incumbent electricity**
- 19       **suppliers do not, within a specified number of days after the**
- 20       **annexation becomes effective (as determined by the**
- 21       **commission in rules adopted under subsection (f)(1)), reach a**
- 22       **mutual agreement under section 6(a)(2) of this chapter to**
- 23       **change the boundaries of the assigned service areas of the**
- 24       **municipally owned electric utility and the affected incumbent**
- 25       **electricity suppliers;**
- 26       **a simple majority of the property owners in the annexed area may**
- 27       **submit to the commission a petition requesting that the commission**
- 28       **determine whether the public convenience and necessity will be**

served if the municipally owned electric utility renders service in the annexed area.

(c) If a petition is submitted to the commission under subsection (b), the commission shall require all affected electricity suppliers, including the municipally owned electric utility, to appear before the commission. Upon notice and after hearing, the commission shall determine whether the public convenience and necessity will be served if the municipally owned electric utility renders service in the annexed area. In making a determination under this subsection as to whether the public convenience and necessity will be served, the commission shall consider all relevant matters, including the following:

(1) The preference of property owners and utility service customers in the annexed area.

(2) The ability of the municipally owned electric utility to render service following the assignment of the annexed area into the municipally owned electric utility's assigned service area.

(3) Other utility services to be supplied in the annexed area by the municipality.

(4) The:

(A) proximity to the annexed area; and

(B) capability;

of the service repair facilities of all affected electricity suppliers, including those of the municipally owned electric utility.

(5) The preference of local government officials.

(d) If the commission determines under subsection (c) that the public convenience and necessity will be served if the municipally owned electric utility renders service in the annexed area, the commission shall:

(1) issue an order:

(A) changing the assigned service areas of the municipally owned electric utility and the affected incumbent electricity suppliers to include the annexed area within the assigned service area of the municipally owned electric utility; and

(B) giving the right to serve and immediate possession to the municipally owned electric utility; and

(2) determine just and reasonable compensation to be paid to the affected incumbent electricity suppliers.

An order of the commission under this subsection is enforceable in court pending an appeal of the order. An appellant from a court order enforcing a commission order under this subsection is not entitled to a stay of the court order pending appeal.

(e) All affected electricity suppliers that appear before the commission under subsection (c) upon a petition to change the

1 boundaries of the assigned service areas of the affected electricity  
2 suppliers shall bear their own fees and costs. Property owners  
3 submitting a petition to the commission under this section shall not  
4 be assessed any fees or costs by the commission in connection with  
5 the petition or with the hearing under subsection (c).

6 (f) The commission shall adopt rules under IC 4-22-2  
7 establishing:

8 (1) procedures and time frames for the submission of a  
9 petition under subsection (b);

10 (2) procedures and time frames for the actions described in  
11 subsection (c); and

12 (3) guidelines for determining just and reasonable  
13 compensation under subsection (d)(2) and time frames for the  
14 payment of such compensation.

15 In adopting rules under this subsection, the commission may adopt  
16 emergency rules in the manner provided under IC 4-22-2-37.1.  
17 Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by  
18 the commission under this subsection in the manner provided  
19 under IC 4-22-2-37.1 expires on the date a rule that supersedes the  
20 emergency rule is adopted by the commission under IC 4-22-2-24  
21 through IC 4-22-2-36."

22 Renumber all SECTIONS consecutively.

(Reference is to SB 309 as printed February 10, 2015.)

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Senator HEAD